

Efficiency, Fairness, and Security at the Polls

Early Voting Commission Final Recommendations



Secretary of State Jason Kander
February 2013



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February 28, 2013

Dear Fellow Missourians,

As Secretary of State, I am committed to ensuring that all eligible Missouri voters are able to cast ballots in the safest, most efficient way possible. Maintaining the security of our elections and increasing access for voters is essential to the preservation of our representative democracy.

Missourians, however, do not share the same voting accessibility as the majority of other states' citizens, including those residing just across our borders. 35 states, including Kansas, Iowa, Illinois, and Arkansas, permit their eligible voters to cast ballots in advance of election day. This system is extremely popular with voters and helps ensure equal access to the polls. In fact, in some early voting jurisdictions, over half of all registered voters cast early ballots.

On my first day in office, I announced the formation of a commission to study the most efficient, fair and secure way to allow eligible Missourians to cast a ballot before election day. This Early Voting Commission, comprised of local election authorities, elected officials, and dedicated citizens, met throughout February to discuss and recommend instituting early voting in Missouri. The commission represented all corners of Missouri, drawing members from both political parties and from rural, urban, and suburban areas, to furnish recommendations well-suited to Missouri's diversity.

I am pleased to now present this set of recommendations and call on our state legislature to seriously consider and implement an affordable plan for early voting.

Sincerely,

A handwritten signature in black ink that reads "Jason Kander".

Jason Kander
Missouri Secretary of State

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Early Voting Commission Members

- Rich Chrismer, St. Charles elections director
- John Comerford, attorney and former chair of the Missouri Veterans Commission
- Jack Hembree, retired lieutenant colonel, Springfield, Mo.
- Bob Johnson, current Lee's Summit City Council member and former state senator
- Tishaura Jones, current St. Louis treasurer and former state representative
- Melodee Colbert Kean, mayor of Joplin, Mo.
- Roosevelt Lyons, Kansas City senior advisor for the office of civic and community engagement
- Peggy McGaugh, Carroll County clerk
- Bree Shaw, Schuyler County clerk
- Rowland Todd, Camden County clerk
- Wes Wagner, Jefferson County clerk

Importance of Early Voting

According to the United States Census Bureau, 26.6 percent of registered nationwide voters did not vote in the November 2010 election because they could not find time to vote.¹ These individuals – nearly one third of all registered voters – have schedules that simply aren't flexible enough or open enough to allow them the necessary time to vote. Early voting can help solve this problem, allowing registered voters to choose a convenient time to cast a ballot, avoid scheduling conflicts, and bypass long lines at the polling place on election day.

Implementing early voting provides valuable convenience to registered voters by fairly and securely increasing access to the polls and decreasing wait times on election day. Indeed, 35 states recognize the importance of early voting, permitting registered voters to cast ballots by mail or in-person in advance of election day.² Importantly, in most states, voters need not even provide a statutorily-required excuse in order to vote early. These reforms are also increasingly popular, as shown by the high proportion of early ballots cast. In some states, more than half of registered voters voted in advance of election day and, nationally, over 30 percent of ballots cast in 2008 and 2012 were voted early.³

Early voting also helps local election authorities better allocate resources, reduce overload on poll workers, and allows elections staff to focus on unanticipated issues that arise on election day. Early voting may, in some instances, even reduce election expenses, as more voters cast ballots in advance of election day.⁴

Current Status of Early Voting In Missouri

Chapter 115 of the Missouri Revised Statutes defines the qualifications and procedures for voting absentee, the only form of “early” voting currently in effect in Missouri. Specifically, Section 115.277 restricts when voters may cast an absentee ballot to only “if such voter expects to be prevented from going to the polls to vote on election day due to:

- (1) Absence on election day from the jurisdiction of the election authority in which such voter is registered to vote;
- (2) Incapacity or confinement due to illness or physical disability, including a person who is primarily responsible for the physical care of a person who is incapacitated or confined due to illness or disability;
- (3) Religious belief or practice;

¹ United States Census Bureau, Voting and Registration in the Election of November 2010, *available at* <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2010/index.html>.

² National Conference of State Legislatures, Absentee and Early Voting, Sept. 4, 2012, *available at* <http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx>.

³ PEW Charitable Trusts, *Millions of Ballots Already Cast*, Nov. 6, 2012, *available at* <http://www.pewstates.org/research/analysis/millions-of-ballots-already-cast-85899428036>.

⁴ Jason Vaughn, *Missouri Voters Feeling Left Behind by Early Voting*, Fox4 News, Oct. 29, 2012, *available at* <http://fox4kc.com/2012/10/29/missouri-voters-feeling-left-behind-by-early-voting>.

- (4) Employment as an election authority, as a member of an election authority, or by an election authority at a location other than such voter's polling place;
- (5) Incarceration, provided all qualifications for voting are retained.”⁵

Missouri is in the minority of states that continue to limit a voter's ability to cast ballots prior to election day. As a result, members of the Missouri General Assembly have repeatedly tried to expand early voting access for all registered voters.⁶ These often bipartisan attempts have failed to pass both legislative chambers, but calls for reform remain strong as both voters and local election authorities see the value of implementing some form of early voting in Missouri.

Overview of Commission Meetings

Secretary of State Jason Kander's Early Voting Commission met on February 13, 2013, February 19, 2013, and February 28, 2013 in Jefferson City to discuss the merits and potential implementation of early voting in Missouri.

At the first meeting, commission members received written testimony on early voting in Missouri from several interested parties and heard from the State Election Director at the Kansas Secretary of State's Office, who discussed the legal background of early voting in Kansas, the early voting options available to Kansas voters, and the state's experience with satellite advance voting. The members then discussed potential early voting proposals in Missouri, including “no excuse” absentee voting and in-person early voting.

At the second meeting, commission members received research on the expected cost of early voting and written testimony from the St. Louis City, Kansas City, and Jackson County Boards of Election Commissioners regarding the implementation of early voting in Missouri. Representatives from each of these offices, and the St. Louis County Board of Election Commissioners and Greene County Clerk's office, led the morning's discussion on early voting and its impact on Missouri's largest election authorities while commission members representing rural counties contributed input. The members, taking into account urban, suburban, and rural perspectives, then began to craft the commission's consensus on early voting, including “no excuse” absentee voting by mail and in-person and early voting.

At the final meeting, the commission members discussed the recommendations to be issued by the Early Voting Commission and finalized this report.

⁵ Mo. Rev. Stat. § 115.277.

⁶ See, e.g., House Bill 1636 (2000); House Bill 247 (2001); House Bill 1769 (2004); House Bill 149 (2005); House Bill 316 (2005); House Bill 762 (2005); House Bill 1355 (2006); House Bill 1702 (2006); Senate Bill 859 (2006); House Bill 867 (2007); Senate Bill 37 (2007); House Bill 2080 (2008); House Bill 2087 (2008); House Bill 2088 (2008); Senate Bill 1251 (2008); House Bill 115 (2009); House Bill 462 (2009); House Bill 466 (2009); House Bill 49 (2009); House Bill 543 (2009); House Bill 865 (2009); Senate Bill 21 (2009); Senate Bill 95 (2009); House Bill 1470 (2010); House Bill 1547 (2010); House Bill 1836 (2010); House Bill 1839 (2010); House Bill 2195 (2010); Senate Bill 651 (2010); House Bill 245 (2011); House Bill 375 (2011); House Bill 382 (2011); Senate Bill 105 (2011); Senate Bill 205 (2011); House Bill 1438 (2012); Senate Bill 603 (2012); House Bill 188 (2013); Senate Bill 145 (2013); Senate Bill 94 (2013).

Commission Recommendations

The Early Voting Commission emphasized the need for thoughtful preparation and implementation of any recommended early voting proposal in order to help eligible Missourians exercise their right to vote.

Recommendation 1: Reform the current absentee ballot law to allow registered voters to cast absentee ballots by mail without needing to state an excuse.

The commission recommends removing the statutory provisions that prohibit registered voters from casting absentee ballots unless they meet one of five statutorily-required conditions.⁷ To ensure ballot security, the “no excuse” absentee system would preserve the requirements that voters request absentee ballots in writing from their local election authorities and that they obtain a notary seal or signature on their mail-in absentee ballot envelopes. However, the commission recommends retaining the exceptions presently in statute that waive notarization for military voters, permanently disabled individuals, and those voting absentee by mail as a result of incapacity due to illness or physical disability, including caregivers of incapacitated individuals.

In order to accommodate an expected increase in mail-in absentee ballots, the commission also recommends extending the allowed processing time for absentee ballots from five days preceding the election⁸ to seven days preceding the election. The costs of the expected increase should also be borne by the state, rather than the local election authorities.

Recommendation 2: Allow registered voters to cast early ballots on voting equipment at a central voting location prior to Election Day to replace current in-person absentee voting.

The commission recommends that each local election authority establish a central voting location, which may be the office of the county clerk or board of election commissioners. Registered voters of the jurisdiction will then be able to cast early ballots, in-person and for any reason, on electronic voting equipment at the central voting location. Permitting voters to cast early ballots on electronic voting equipment will eliminate the need for absentee envelopes and reduce processing time for the local election authority.

The commission also recommends that the early ballot process should emulate current election day procedures, including requiring registered voters to sign poll books rather than complete absentee ballot applications when casting an early ballot. However, local election authorities may utilize their office staff and shall update their voter rolls to reflect those who have already cast an early ballot to maintain secure voting procedures.

⁷ Mo. Rev. Stat. § 115.277.1 requires that, to cast an absentee ballot, a person must be prevented from voting at the polls on election day “due to 1) absence on election day from the jurisdiction of the election authority in which such voter is registered to vote; 2) incapacity or confinement due to illness or physical disability, including a person who is primarily responsible for the physical care of a person who is incapacitated or confined due to illness or disability; 3) religious belief or practice; 4) Employment as an election authority, as a member of an election authority, or by an election authority at a location other than such voter's polling place; or 5) incarceration, provided all qualifications for voting are retained.”

⁸ Mo. Rev. Stat. § 115.300.

In order to implement early ballot voting, the commission recommends allowing local election authorities to test electronic voting equipment fourteen days prior to the early voting period since early ballot voters will be utilizing electronic voting equipment. Though the ballots will be immediately counted by the electronic voting equipment, the commission strongly recommends prohibiting local election authorities from tabulating the ballots until election night.

To avoid voter confusion and increase accessibility, the commission recommends commencing the in-person early voting period six weeks prior to the election to coincide with the current absentee ballot period. Should additional expenses arise, the costs of implementing early ballot voting at the central location for six weeks should be borne by the state, rather than the local election authorities.

Recommendation 3: Create satellite voting locations during November Presidential elections.

The commission recommends that, in addition to the central voting location, local election authorities may create additional satellite voting locations within the jurisdictions. However, for jurisdictions with more than 175,000 registered voters, local election authorities must create at least one additional satellite location during November Presidential elections. The costs of these satellite locations should be borne by the state to prevent additional burdens on local election authorities.

The commission recommends that the November Presidential election satellite locations be open for at least four hours a day for a minimum of 14 days, closing on the Wednesday prior to the election. During that timeframe, the local election authority must also keep the satellite location open for at least eight hours on one weekend day. For ballot security purposes, if an electronic voting machine is used at a satellite location, the memory card of each electronic voting machine and any corresponding paper ballots must be securely removed upon closing of the satellite location and stored securely in the central office of the local election authority. Throughout the satellite voting location period, local election authorities shall update their voter rolls to reflect those who have already cast an early ballot to maintain secure voting procedures.

Recommendation 4: Early voting lists should be kept confidential and should only be disclosed twice prior to the election.

Current Missouri law⁹ requires local election authorities to keep a list of all individuals that request absentee ballots and maintain the confidentiality of those lists, with stated exceptions. The commission recommends similar guidelines for early ballot voters, including maintaining the confidentiality of lists of registered voters that have voted by early ballot. Consistent with current law, only candidates or duly authorized representatives of a campaign committee, or any person with written authorization from a candidate, or any person that has cast an early ballot should be entitled to see these lists, but the commission recommends that the lists be disclosed only on the third Tuesday prior to the election and after 8 a.m. on the Friday prior to the election.

⁹ Mo. Rev. Stat. § 115.289.3-.4.